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Bedminster, NJ 07921
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FAX 908 306-7329

Katherine S. Abrams
Regional Counsel

November 26, 1996

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Mr. William F. Caton **FCC** **AL ROC**
Secretary
Federal Communications Commission
1919 M. Street, N.W. Room 222
Washington, D.C. 20554

Re: CC Docket No.96-115 /& WT Docket 96-162 /Ex Parte Notice

Dear Mr. Caton:

I am Regional Counsel for Bell Atlantic NYNEX Mobile (BANM), and I am writing to request prompt disposition of the pending Docket No. 96-115 in which the Commission proposes to propound rules concerning the use of Customer Proprietary Network Information (CPNI). BANM is a joint venture of Bell Atlantic and NYNEX and provides cellular service in markets throughout the East Coast. BANM competes with AT&T Wireless in the New York/Northern New Jersey cellular market. BANM is at a competitive disadvantage in the New York/Northern New Jersey marketplace because of the gross inequity that exists in the application of the current CPNI rules.

Section 702 of the Telecommunications Act of 1996, (new Section 222 to the Communications Act of 1934) "PRIVACY OF CUSTOMER INFORMATION", specifically provides that "except as required by law or with the approval of the customer, a telecommunications carrier that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to individually identifiable customer proprietary network information, in its provision of (A) the telecommunications service from which such information is derived ...". In its Comments filed in the above-captioned Docket, AT&T Corporation advocated a broad reading of the term "telecommunications service".¹

Without waiting for the Commission to concur with its views, AT&T is currently conducting a direct mail and telemarketing campaign in the New York/Northern New Jersey cellular market area using its long distance customer list to market and promote AT&T's cellular service. The enclosed undated letter is addressed to Ms. Diane Whitehead, who happens to be the Executive Director of Marketing for Bell Atlantic NYNEX Mobile's New York market. As you can see, this letter is advertising AT&T cellular service. Subsequent to her receipt of his letter, Ms. Whitehead received an outbound telemarketing call from AT&T. According to the telemarketing representative, she was calling AT&T's long

¹ See, Comments Of AT&T Corp. CC Docket 96-115.

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distance customers in the New York market with a "special wireless offer". The telemarketing representative offered Ms. Whitehead a free cellular phone, 30 minutes of local cellular airtime each month for one year, and no activation fee. She also described the AT&T Wireless 3810 cellular phone and described its length, weight, and warranty specifics.

Ms. Whitehead asked the representative how she came to be on the list to receive the mailing and phone call, and the representative said it was because she was a "valued customer". Ms. Whitehead then asked her a "valued customer of what?" The telemarketing representative told her that she was "a valued long distance customer."² AT&T has access to Ms. Whitehead's name, address, and phone number because of AT&T's provision of Ms. Whitehead's landline long distance service. However, AT&T is using that information to attempt to provide Ms. Whitehead with cellular service.³

BANM is under a competitive disadvantage until the FCC acts. As written, the Cellular Separation Rules currently prohibit Bell Atlantic or NYNEX from providing BANM with their landline CPNI unless that same information is made publicly available.⁴ Therefore, BANM is competitively disadvantaged by the current application of the CPNI rules.

I am aware that in CC Docket 96-115 the FCC is currently reviewing the CPNI Rules. It is critical that the FCC give carriers clear guidance on the use of such information. I am also aware that in WT Docket 96-162 the FCC is reviewing the cellular separation rules. BANM believes that the cellular separation rules have been effectively repealed by the Telecom Act. However, BANM has cautiously refrained from acting on that belief until the FCC issues a decision.

Therefore, until such time as the FCC adopts a new rule that permits carriers unrestricted use of their CPNI, the Commission should order AT&T to cease this promotion and cease all further use of its landline long distance customer list for the marketing of cellular service. Alternatively, the Commission

² A copy of the mailing is attached for your information. Also attached is a copy sent to Jay Liotta, a New Jersey resident who is the husband of a BANM paralegal. Both Ms. Whitehead and Mr. Liotta have AT&T landline long distance on their home telephones, but are BANM cellular customers. This indicates that AT&T is distributing the mailing to their landline long distance customers who reside anywhere in BANM's New York or New Jersey cellular service area.

³ AT&T did include a 30-minute long distance offer on the home phone along with the cellular promotion. However, it is clear both from the envelope (a copy of which is enclosed) and the offer text, that the primary purpose of the offer is cellular. Indeed, the telemarketing representative, spent virtually the entire call discussing the cellular offer and the attributes of the "free" cellular phone.

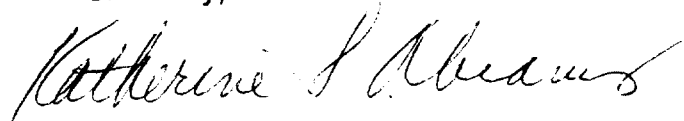
⁴ 47 CFR 22.903 (f). AT&T is not required to make its customer list publicly available.

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should immediately permit BANM to use landline CPNI to market its cellular service. Whatever the result, it must afford BANM the same opportunities as those afforded to its marketplace competitors.

Sincerely,

A handwritten signature in cursive script, reading "Katherine S. Abrams". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

cc: Mark Rosenblum, AT&T
Regina Keeney
Michelle Farquhar



PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE
PAID
AT&T

Diane Whitehead
61 E. 77th St. Apt. 9C
New York, NY 10021-1864



An extraordinary offer that's making
cellular communication an everyday convenience.

• Free cellular phone • 30 minutes of residential
AT&T Long Distance included each month • 30 minutes of local
cellular airtime included every month for a year



You've got a life.
Now get the phone to go with it.



**Introducing a special limited-time
offer from AT&T.**

Diane Whitehead
61 E. 77th St. Apt. 9C
New York, NY 10021-1864



Dear Diane Whitehead:

I'm sure you know that a cellular phone can be very helpful in the event of an emergency. But did you also know that a cellular phone can be extremely useful in your everyday life as well?

Just think about when a cellular phone would come in handy: You can call to say you'll be late when you're stuck in traffic. Your family can reach you when you're out running errands. You can check in for important messages from almost anywhere.

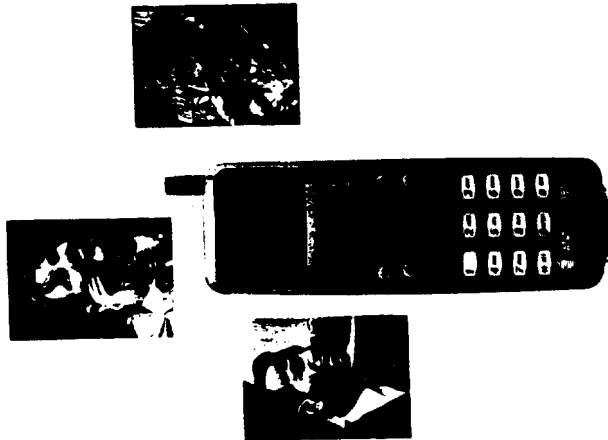
And now, because you're a valued AT&T customer, you're invited to take advantage of a special offer that can help make cellular service an everyday convenience for you — as well as bring you valuable savings on your AT&T Long Distance service at home.

**Offer includes a free cellular phone, local cellular airtime,
and AT&T Long Distance minutes from your home phone.**


Just sign up with AT&T Wireless Services for only \$29.99¹ a month and you'll get:

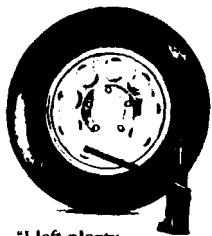
- A free AT&T 3810 cellular phone.²
- Up to 30 minutes of AT&T Long Distance on your home phone included every month.³





You've got a life.
Now get the phone
to go with it.

 **AT&T**
Your True Choice™



"I left plenty of time to get to the airport, but I didn't factor in car trouble. Fortunately, I've got my cellular phone, so the tow truck is on its way. And I called a cab. I'll be there as soon as I can."



"I'm in the cab now and traffic isn't so bad. The driver says we'll be at the airport in about twenty minutes. Is Tim there? Maybe he can brief me now, since I'll be walking into the meeting late."



"You still have two tickets left? For Saturday night? Fantastic. Okay, I'll hold. I'm just waiting here at the airport."



"Yeah, the meeting went really well. I'm about to go into the supermarket. What kind of pasta did you say you wanted? The long thin kind? The short fat kind? How about bow ties?"



"Good news! They accepted your offer. Do you want to see the house again? Okay, I just have to drop my son off at softball practice. Meet me at my office in about half an hour."



"Mom, I'm so glad you're feeling better. Yes, it must have been something you ate. Got to run, I'm late for an appointment. Give my love to Dad. Remember, we'll be over tomorrow with the kids."

complete

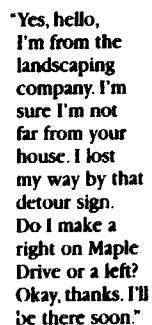
AT&T Wireless Services arranges everything for you. Cellular service that enables you to make local cellular calls and cellular long distance calls to almost anyone, anytime. A free portable cellular phone. Valuable savings on the AT&T Long Distance calls you make from home. An unsurpassed level of customer service whenever you need help. What's more, for your convenience, you can choose to have your cellular calls and your AT&T Long Distance calls from home appear on a single bill. And you'll enjoy the peace of mind of knowing that your new cellular service comes from an experienced company committed to quality and value. So just give us a call today to order cellular service from AT&T Wireless Services. 1-800-532-8892, ext. 28229.



"Hi, it's me. I stopped off to get something to eat. Just checking in for my messages. Did that couple drop off the signed contract?"



"Hey, I've been waiting to hear from you, slugger. How'd it go? See, I knew you'd do great. Are you ready? I'm just leaving the dry cleaner now. I'll pick you up in 10 minutes."



"Listen, I just got here and we really don't have enough trees for the whole backyard. Can you send somebody up with four or five more. Thanks. And tell him to watch out for the detour sign."

affordable

With this Special Offer, we'll add a free AT&T Residential AIRTEL Wireless service to your cellular bill. A complete, no-activation cellular communication service, so you can talk to anyone, anywhere, any time, without paying a cent. And you can use it for as long as you want. The AT&T Long Distance Cellular Plan lets you make long distance calls for only \$2.99 per minute. And you'll get a free AT&T 310 Cellular Phone. It's a \$100 computer to AT&T. And you can get it from your home. It's a free, no-charge service. You can use it for 30 minutes a month. And you can use it anytime, anywhere. You can use it for a full year. Plus, there's no activation fee. And it's a free service. Affordable. Nobody's ever offered a cellular service and residential long distance service together for you like AT&T. Now call us sign up now. 1-800-444-4444. 1-800-532-8892. ext. 2222. That's Your True Choice. AT&T.



"Are you really going to be that late? No, don't worry. I'll pick up the kids at the day care center. No problem. I'm almost done here anyway."



"We just stopped at the video store on the way home. What was the name of that movie you wanted to see? Just a second, I'm looking for it. Hey, we're in luck. There's one copy left."

*Requires new activation on a 12-month service contract. Credit approval required. A maximum cancellation fee of up to \$200 applies for early termination. This offer cannot be combined with other promotional offers. Other conditions, charges, taxes and exclusions apply. Partial minutes are rounded up and billed as a full minute so actual number of included minutes will vary. Excludes monthly cellular airtime and residential AT&T Long Distance minutes included in this offer cannot be carried

over to the next month. Offer available through 12/31/96. There is a \$6.50 per phone shipping and handling charge. Limit 2 phones per customer. To receive residential AT&T Long Distance minutes included in this offer you must remain an AT&T Long Distance customer on your home phone, as well as remain enrolled in your AT&T cellular plan. Includes direct dialed domestic calls only. Certain conditions and exceptions apply. Subject to billing availability.



P.O. Box 9399
Farmingdale, NY 11735-9399

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE
PAID
AT&T

***** AUTOOCR**C003

Jay Liotta

8 Manchester Dr.

Whippany, NJ 07981-1615



**An extraordinary offer that's making
cellular communication an everyday convenience.**

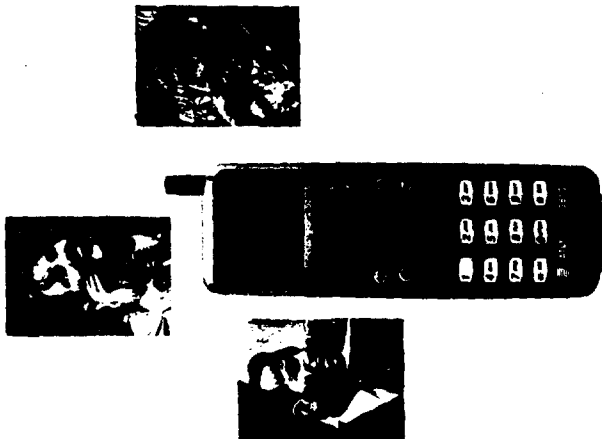
• Free cellular phone • 30 minutes of residential
AT&T Long Distance included each month • 30 minutes of local
cellular airtime included every month for a year



You've got a life.
Now get the phone to go with it.

[illegible]

- A free AT&T 3810 cellular phone.²
- Up to 30 minutes of AT&T Long Distance on your home phone included every month.³
- Up to 30 minutes of local cellular airtime included every month for a full year.

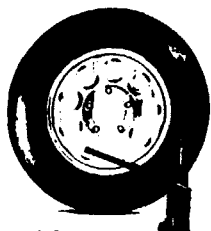


You've got a life.
Now get the phone
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AT&T

Your True Choice™



"I left plenty of time to get to the airport, but I didn't factor in car trouble. Fortunately, I've got my cellular phone, so the tow truck is on its way. And I called a cab. I'll be there as soon as I can."



"I'm in the cab now and traffic isn't so bad. The driver says we'll be at the airport in about twenty minutes. Is Tim there? Maybe he can brief me now, since I'll be walking into the meeting late."



"You still have two tickets left? For Saturday night? Fantastic. Okay, I'll hold. I'm just waiting here at the airport."



"Yeah, the meeting went really well. I'm about to go into the supermarket. What kind of pasta did you say you wanted? The long thin kind? The short fat kind? How about bow ties?"



"Good news!
They accepted
your offer. Do
you want to see
the house
again? Okay,
I just have to
drop my son
off at softball
practice. Meet
me at my office
in about half
an hour."



"Mom, I'm so glad
you're feeling
better. Yes, it must
have been some-
thing you ate. Got
to run, I'm late for
an appointment.
Give my love to
Dad. Remember,
we'll be over
tomorrow with
the kids."

complete

AT&T Wireless ServicesSM now
arranges everything for you.
Cellular service that enables
you to make local cellular
calls and cellular long dis-
tance calls to, almost anyone,
anytime. A free portable cel-
lular phone. Valuable savings
on the AT&T Long DistanceSM
calls you make from home.
An unsurpassed level of cus-
tomer service whenever you
need help. What's more, for
your convenience, you can
choose to have your cellular
calls and your AT&T Long
Distance calls from home
appear on a single bill. And
you'll enjoy the peace of
mind of knowing that your
new cellular service comes
from an experienced com-
pany committed to quality
and value. So just give us a
call today to order cellular
service from AT&T Wireless
Services. 1.800.532.8892,
ext. 28229.



"Hi, it's me.
I stopped off to
get something
to eat. Just
checking in for
my messages.
Did that couple
drop off the
signed contract?"



"Hey, I've been
waiting to hear
from you, slugger.
How'd it go? See,
I knew you'd do
great. Are you
ready? I'm just
leaving the dry
cleaner now. I'll
pick you up in
10 minutes."



"Yes, hello, I'm from the landscaping company. I'm sure I'm not far from your house. I lost my way by that detour sign. Do I make a right on Maple Drive or a left? Okay, thanks. I'll be there soon."



"Listen, I just got here and we really don't have enough trees for the whole backyard. Can you send somebody up with four or five more. Thanks. And tell him to watch out for the detour sign."

affordable

With this special offer, we've used AT&T's customer service and Wireless Service to make cellular communication every day on your budget. And the best you'll have on the AT&T Long Distance plan, minutes from home, is included now for only \$20.00 a month. You'll get a free AT&T cellular phone with 30 minutes of AT&T Long Distance minutes of AT&T Long Distance from your home phone included every month. 30 minutes of local cellular airtime included every month for a full year. Plus there's no activation fee. Simple. Complete. Affordable. Nobody puts you down. Cellular service and residential long distance service. Both for you like AT&T. Just call us to sign up now. 1-800-532-8892 ext. 28220. That's Your True Choice. AT&T.



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